

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Alexandria Division

In re:

FALKE, INC.,

Debtor.

Case No. 05-11818-RGM
(Chapter 7)

MEMORANDUM OPINION

K.T. Enterprises, Inc., Northern Fire Protection, Inc., and Capitol Building Supply, Inc., filed an involuntary petition against Falke, Inc., in this court on May 11, 2005. The petitioners requested relief under chapter 7 of the Bankruptcy Code. The alleged debtor did not file a response to the petition. However, on May 31, 2005, it filed its own voluntary petition in bankruptcy in the United States Bankruptcy Court for the District of Columbia, Case No. 05-00856. This case was filed under chapter 11. On June 2, 2005, it filed a suggestion of bankruptcy in this court.

Federal Rule of Bankruptcy Procedure 1014(b) provides:

If petitions commencing cases under the Code are filed in different districts by or against . . . the same debtor, . . . on motion filed in the district in which the petition filed first is pending and after hearing on notice . . . the court may determine . . . the district . . . in which the case . . . should proceed. Except as otherwise ordered by the court in court in the district in which the petition first filed is pending, the proceedings on the other petitions shall be stayed by the courts in which they have been filed until the determination is made.

The suggestion of bankruptcy Falke filed in this court accomplishes nothing. While it advises this court and the parties in this case of the filing of the second petition, it does not itself stay the proceedings in this court. Pursuant to Rule 1014(b) the case in this court has precedence and all proceedings in the United States Bankruptcy Court for the District of Columbia ought to be stayed by that court until this court determines which case should proceed.

This court will treat Falke's District of Columbia petition, a voluntary petition filed after the involuntary petition in this court, as consent to the relief requested by the petitioners and as a motion under 11 U.S.C. §706 to convert the case to a proceeding under chapter 11.

Alexandria, Virginia
June 8, 2005

/s/ Robert G. Mayer
Robert G. Mayer
United States Bankruptcy Judge

Copy electronically to:

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